



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/587,033	07/24/2006	Tatsuya Nishi	L9289.06169	9249

52989 7590 11/04/2008

Dickinson Wright PLLC  
James E. Ledbetter, Esq.  
International Square  
1875 Eye Street, N.W., Suite 1200  
Washington, DC 20006

EXAMINER
----------

CHOKSHI, PINKAL R

ART UNIT	PAPER NUMBER
----------	--------------

2425

MAIL DATE	DELIVERY MODE
-----------	---------------

11/04/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/587,033	<b>Applicant(s)</b> NISHI ET AL.	
	<b>Examiner</b> PINKAL CHOKSHI	<b>Art Unit</b> 2425	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 June 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 14-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 July 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>07/24/2006</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. **Claim 23** is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- Regarding claim 23, it is unclear when claiming "...switching is not performed to a channel list with which a time newly stored..., but switching is performed to a next channel list, deletes a channel list that was not switched to..." It is ambiguous why the Applicant is attempting to delete channel list that was not switched and then perform switching to a next channel list. Applicant is asked to clarify. For the purpose of examination, it is the Examiner's position that any distance reads on above limitation and such is in accordance with broadest reasonable interpretation, and from the perspective of one having ordinary skill in the art.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the

Art Unit: 2425

applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. **Claims 14-22 and 24-27** are rejected under 35 U.S.C. 102(e) as being anticipated by US PG Pub 2005/0122429 to Katsube et al (hereafter referenced as Katsube).

Regarding **claim 14**, “a digital broadcast receiving apparatus” reads on the communication terminal device that receives TV broadcasting data (abstract) disclosed by Katsube and represented in Fig 1 (element 5).

As to “apparatus comprising: a storage section that stores a plurality of channel lists corresponding to a plurality of different broadcast areas associated with time” Katsube discloses (§§0029-§§0030) that the communication terminal receives and stores TV broadcasting information for current broadcasting receivable area as well as broadcasting areas adjacent to current broadcasting area in real time as represented in Fig. 1 (element 11) and Fig. 6.

As to “a time information acquisition section that acquires current time information” Katsube discloses (§§0062) that the communication terminal receives and stores current time information.

As to “a channel list control section that uses a channel list to which a current time acquired by said time information acquisition section and a time stored in said storage section correspond as a currently usable channel list” Katsube discloses (§§0025) that the communication terminal depends on the base station information, stored in the storage device, periodically received to acquire

Art Unit: 2425

information such as a TV broadcasting receivable area and a TV broadcasting frequency matching to the base station information and sets a TV broadcasting frequency which is suited to the TV broadcasting receivable area. Katsube further discloses (¶0041 and ¶0045) that the controller in communication terminal verifies a current TV broadcasting receivable area received in real time and retrieves a TV broadcasting frequency matched with the TV broadcasting receivable area to acquire current broadcasting information as represented in Fig. 1 (element 10).

Regarding **claim 15**, “the digital broadcast receiving apparatus further comprising a channel selection section that selects a service channel included in a first channel list used as a currently usable channel list” Katsube discloses (¶0044 and ¶0045) that the user selects and starts watching a TV program channel when user activates a TV function as represented in Fig. 3 (step S1).

As to “wherein said channel list control section, if, when switching from said first channel list to a different second channel list as a currently usable channel list, a service channel selected by said channel selection section is included in said second channel list switches a channel list while maintaining channel selection of a service channel selected by said channel selection section” Katsube discloses (¶0047 and ¶0048) that when user moves from one broadcasting area to adjacent/another broadcasting area, user can continuously

Art Unit: 2425

watched the same TV program with other programming information on communication terminal as represented in Fig. 3.

Regarding **claim 16**, “the digital broadcast receiving apparatus further comprising a channel selection section that selects a service channel included in a first channel list used as a currently usable channel list; wherein said channel list control section, if a service channel selected by said channel selection section is not included in a second channel list different from said first channel list, switches a channel list after selection of a service channel selected by said channel selection section is discontinued” Katsube discloses (¶0049, ¶0086, ¶0087 ) that if there is no information matching to the current position program available, then the user on communication terminal can not continuously watch the program and communication terminal switches to another broadcasting program information as represented in Fig. 3 (steps S3,8-10).

Regarding **claim 17**, “the digital broadcast receiving apparatus further comprising a channel selection section that selects a service channel included in a first channel list used as a currently usable channel list; wherein said channel list control section, if selection of a channel included in said first channel list by said channel selection section fails, or if selection of a service channel selected by said channel selection section is discontinued, causes said channel selection section to perform channel selection using a channel not included in said first

Art Unit: 2425

channel list, or a channel selected last when said second channel list was previously used as currently usable channels, among channels included in a second channel list with which a time close to a current time acquired by said time information acquisition section is associated, and switches to said second channel list on condition that channel selection succeeds” Katsube discloses (¶0086) that when the communication terminal moves from one receivable area to another and determines that the memory did not store broadcasting information matching to the current position, TV broadcasting is stopped. Katsube further discloses (¶0053) that when the communication terminal is moved to a different broadcasting area, terminal tuner tunes to a TV frequency where terminal determines, based on the date and time, the program that was watched last time when the terminal was in that broadcasting area as represented in Fig. 6.

Regarding **claim 18**, “the digital broadcast receiving apparatus further comprising a channel selection section that selects a service channel included in a first channel list used as a currently usable channel list; wherein said channel list control section, if a combination of frequency channels for which channel selection by said channel selection section was successful is different from any combination of frequency channels in channel lists stored in said storage section, acquires a new channel list corresponding to a broadcast area at a current location” Katsube discloses (¶0042) that when the communication terminal

Art Unit: 2425

moves between different broadcasting areas, controller automatically sets to a frequency suited with that area if the frequency stored in the storage unit doesn't match with the frequency of current receivable area.

Regarding **claim 19**, "the digital broadcast receiving apparatus further comprising a channel selection section that selects a service channel included in a first channel list used as a currently usable channel list; wherein said channel list control section, if channel selection by said channel selection section fails for channels included in all channel lists stored in said storage section, causes said channel selection section to perform a channel search until channel selection succeeds for a frequency channel, and acquires a new channel list corresponding to a broadcast area at a current location" Katsube discloses (¶0027) that the communication terminal moves from one broadcasting area to another and when the frequency for the current broadcasting program is failed to receive current broadcasting, terminal acquires information associated with the base station information, current receivable area and broadcasting frequency, and switches to a frequency suited to the current receivable area.

Regarding **claim 20**, "the digital broadcast receiving apparatus wherein said channel list control section, if switching from said first channel list to said second channel list is later than a time associated with said second channel list stored in said storage section, updates a time associated with said second



Art Unit: 2425

channel list to a time at a time of channel list switching” Katsube discloses (¶0031) that the communication terminal stores record information such as TV broadcasting receivable areas associated with the broadcast programming information and updates this information by storing date and time at which the record information was updated.

Regarding **claim 21**, “the digital broadcast receiving apparatus wherein said channel list control section, if switching from said first channel list to said second channel list is earlier than a time associated with said second channel list stored in said storage section, updates a time associated with said second channel list to a time at a time of channel list switching” Katsube discloses (¶0031) that the communication terminal stores record information such as TV broadcasting receivable areas associated with the broadcast programming information and updates this information by storing date and time at which the record information was updated.

Regarding **claim 22**, “the digital broadcast receiving apparatus wherein said channel list control section, if switching is performed to a channel list in an order different from times stored in said storage section, causes said storage section to newly store a channel list switched to, associated with a time at which switching was performed” Katsube discloses (¶0031 and ¶0062) that the communication terminal stores record information such as the broadcast

Art Unit: 2425

programming information (channel list) and updates this information by storing date and time at which the record information was updated again.

Regarding **claim 24**, “the digital broadcast receiving apparatus further comprising a channel selection section that selects a service channel included in a first channel list used as a currently usable channel list; wherein said channel selection section, if a service channel included in selected said first channel list is not included in a second channel list different from said first channel list, performs channel selection using a channel of an affiliate of a broadcasting station that provides a selected service channel” Katsube discloses (¶0069, ¶0097) that if there is no broadcasting station which is broadcasting the same program when moved from one broadcasting area to another, the terminal switches to a TV broadcasting frequency of a program that belongs to the same family.

Regarding **claim 25**, “the digital broadcast receiving apparatus further comprising a channel selection section that selects a service channel included in a first channel list used as a currently usable channel list; wherein said channel selection section, if a service channel included in selected said first channel list is not included in a second channel list different from said first channel list, performs channel selection using a channel selected last when said second channel list was previously used as currently usable channels” Katsube discloses

Art Unit: 2425

(¶0053) that when the communication terminal is moved to a different broadcasting area, terminal tuner tunes to a TV frequency where terminal determines, based on the date and time, the program that was watched last time when the terminal was in that broadcasting area as represented in Fig. 6.

Regarding **claim 26**, “the digital broadcast receiving apparatus further comprising a channel selection section that selects a service channel included in a first channel list used as a currently usable channel list; wherein said channel selection section performs channel selection using a channel that broadcasts a same program as a program selected using a channel included in said first channel list, based on program information of broadcasting stations included in a second channel list different from said first channel list” Katsube discloses (¶0067 and claim 9) that the TV broadcasting tuner switches from current broadcasting frequency to a frequency of another channel which is broadcasting the same program.

Regarding **claim 27**, “the digital broadcast receiving apparatus further comprising: a last channel storage section that stores a last channel selected last when previously used as a currently usable channel for each of said plurality of channel lists” Katsube discloses (¶0031 and ¶0045) that the communication terminal stores record information such as TV program was watched the last time with current base station information.

Art Unit: 2425

As to “a frequency channel selection section that performs channel selection using a frequency channel indicated by said last channel” Katsube discloses (¶0031) that based on the record information stored in the communication terminal, which also includes frequency used to watch last channel, terminal uses the same frequency it used to watch the last channel in that receivable area as represented in Fig. 6.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claim 23** is rejected under 35 U.S.C. 103(a) as being unpatentable over Katsube in view of US Patent 7,366,461 to Brown et al ( hereafter referenced as Brown).

Regarding **claim 23**, “the digital broadcast receiving apparatus wherein said channel list control section, if switching is not performed to a channel list with which a time newly stored in said storage section is associated, but switching is performed to a next channel list, deletes a channel list that was not switched to from said storage section” Katsube discloses (¶0031 and ¶0062) that the communication terminal stores record information such as the broadcast programming information (channel list) and updates this information by storing date and time at which the record information was updated again. However,

Art Unit: 2425

Katsube does not explicitly teach if updated channel list is not used, then it's deleted. Brown discloses (col.6, lines 44-55) that the programming content is stored in the memory and less desirable content or not used content is erased from the memory. Therefore, it would have been obvious to one of the ordinary skills in the art at the time of the invention to modify Katsube's system by deleting programming list not used by user as taught by Brown in order to maintain only user's interested program in storage device and also to free up space on the storage device.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- US Patent 5,307,513 to Harada discloses a channel frequency storing method for a vehicle radio.
- US Patent 6,463,265 to Cohen discloses a data source hand-off in a broadcast based environment.
- US Patent 6501,938 to Suenaga discloses satellite broadcasting system and broadcasting satellite.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PINKAL CHOKSHI whose telephone number is (571) 270-3317. The examiner can normally be reached on Monday-Friday 8 - 5 pm (Alt. Friday off).

Art Unit: 2425

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Pendleton can be reached on 571-272-7527. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/P. C./  
Examiner, Art Unit 2425

/Brian T. Pendleton/  
Supervisory Patent Examiner, Art Unit 2425